IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 15884 of 2003

Between:

V.Kullayappa S/o. Y.Venkatappa
R/o. Muktapuram Village, Mudigubba Mandal
Presently residing at D.No.1/826, Near R&B Bungalow, Mudigubba, Anantapur Dist.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Penukonda, Anantapur District.
2 The Mandal Revenue Officer, Mudigubba Mandal, Anantapur District.
3 Smt. Y.Venkatalakshmamma, W/o. Venkatanarayana
R/o. Mukthapuram Village, Mudigubba Mandal
Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the order of the 1st respondent passed in D.Dis. No.578/2003/B dated 13.6.2003 (referred to in the order of the 2nd respondent) and the consequential order of the 2nd respondent passed in Rc.No.195/2003/B dated 15.7.2003 as illegal, arbitrary and one without jurisdiction.

Counsel for the Petitioner:MR.O.MANOHER REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

Counsel for the Respondent No.3: MR. P. VEERA REDDY

The Court made the following :

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THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.15884 OF 2003

ORDER:

The petitioner is resident of Muktapuram Village. Aggrieved by the proceedings of first respondent in D.Dis.No.578/2003/B, dated 13.6.2003 and the consequential order of second respondent in Rc.No.195/2003/B, dt.15.7.2003 petitioner filed the instant Writ Petition.

The fact of the matter is not in dispute. An extent of Acs.5.34 in S.No.495-3 of Jonnalakothapalli Village, Mudugubba Mandal, was assigned in 1956 in favour of petitioner's father. One Venkatanarayana, husband of third respondent, is brother of petitioner. It is alleged that after death of petitioner's brother in 1969 owing to certain family disputes a partition was effected on 14.10.1974 among family members in which the land in S.No.495-3 was allotted to the share of the petitioner and after death of petitioner's father, it is alleged, the property in question devolved on the petitioner. The petitioner approached the second respondent for pattadar pass books and after conducting enquiry, the Mandal Revenue Officer issued pattadar pass books to petitioner showing him as owner for the entire extent of land in S.No.495-3 of Jonnalakothapalli Village. It is the case of the petitioner that on 15.7.2003 second respondent purporting to take action as per proceedings of first respondent issued orders directing the Mandal Revenue Inspector-2, Mudigubba, to prepare pattadar pass books incorporating the name of third respondent. Therefore, petitioner filed the present Writ Petition *inter alia* contending that first respondent did not serve any notice before directing the second respondent to issue pattadar pass books to petitioner as well as third respondent with equal shares.

Third respondent filed a detailed counter affidavit denying the petition averments. It is her case that after death of her husband though there was a partition in 1974 land in question was not allotted to petitioner, and the land was allotted to her father-in-law as he is original assignee. She also states that after death of her father-in-law in 1986, she is also entitled for half share in the property as the same was not partitioned. The allegation that first respondent did not issue any notice before passing impugned order is denied. The Writ Petition is also opposed on the ground that petitioner has effective alternative remedy.

In view of the controversy as to whether first respondent served notice on the

petitioner or not, this Court directed the learned Assistant Government Pleader to produce file. The file is produced. A perusal of the file would show that on 25.5.2003 first respondent issued notice, which is found at page 123 of the file bearing D.No.578/03. Further, on 31.5.2003 after having received the report of second respondent, first respondent reserved the matter and subsequently passed orders. Indeed, there was also reference to notice given to both parties. Though a categorical averment is made in the counter affidavit filed by first respondent as well as third respondent that notice was issued to petitioner, no reply affidavit is filed denying the same. In the absence of any rebuttal regarding this averment, this Court cannot countenance the submission of the learned counsel for the petitioner that the impugned order is passed without any notice, and the submission is misconceived.

In the impugned order first respondent while mentioning the pattadar pass books issued in favour of the petitioner for the land, remitted the matter to second respondent to issue pattadar pass books to petitioner and third respondent in equal shares. Therefore, this Court is not inclined to interfere with the order and if any objection is to be raised, it is open to petitioner and third respondent to approach the second respondent in this regard.

The Writ Petition, subject to above observations, is dismissed. No costs.

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(V.V.S.RAO, J)

17.11.2004

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To

1. The Revenue Divisional Officer, Penukonda,

Anantapur District.
2. The Mandal Revenue Officer, Mudigubba Mandal,

Anantapur District.
3. 2CCs to G.P. for Revenue, High Court Bldgs., Hyderabad (OUT)

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